IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

Juan Carlos Ruemmele Song; Gretchen Denise Ferman (neé Ruemmele Song); Victoria de Lourdes Ruemmele Resto Plaintiffs vs.	CIVIL NO.: MEDICAL MALPRACTICE WRONGFUL DEATH
Hospital Menonita Caguas, Inc.; Mennonite General Hospital, Inc.; Hospital General Menonita, Inc.; Dr. Jorge L. Cordero Soto, Jane Doe I and the Conjugal Partnership Between them; Dr. Aracelio Díaz Pérez, Jane Doe II and the Conjugal Partnership Between them; Dr. José J. Pérez Matamoros, Jane Doe III and the Conjugal Partnership Between them; Dr. John Doe, Jane Doe IV and the Conjugal Partnership Between them; Dr. Edgardo Quintana-Pagán, Jane Doe V and the Conjugal Partnership Between them; Sindicato de Aseguradores para la Suscripción Conjunta de Seguros de Responsabilidad Médico Hospitalaria (SIMED); Doctors A-Z; Conjugal Partnerships A-Z; Personnel A-Z; Entities A-Z; Insurance Companies A-Z Defendants	PLAINTIFFS DEMAND TRIAL BY JURY

COMPLAINT

TO THE HONORABLE COURT:

NOW COME plaintiffs, Juan Carlos Ruemmele Song, Gretchen Denise Ferman (neé Ruemmele Song) and Victoria de Lourdes Ruemmele Resto (hereinafter referred to as Plaintiffs), through the undersigned attorney, and very respectfully state, allege and pray as follows:

I. JURISDICTIONAL PLEADINGS

1. This Honorable Court has jurisdiction pursuant to 28 U.S.C. 1332 over state law claims under Article 1802 and 1803 of the Civil Code of Puerto Rico, section 5141 and 5142 of Title 31 of the Laws of Puerto Rico Annotated. The matter in controversy exceeds the sum of value of $75,000.00, exclusive of interest and costs, and arises between citizens of different states, so complete diversity of citizenship exists between plaintiffs and defendants.

2. At all times herein material plaintiffs Juan Carlos Ruemmele Song and Gretchen Denise Ferman (neé Ruemmele Song) were and are citizens of the State of Texas, where they reside and are domiciled.

3. At all times herein material plaintiff Victoria de Lourdes Ruemmele Resto was and is a citizen of the State of Florida, where she resides and is domiciled.

4. At all times herein material all co-defendants were and are corporations organized under the laws of the Commonwealth of Puerto Rico, or of a state other than Texas or Florida, and/or individual citizens of the Commonwealth of Puerto Rico, or of a state other than Texas or Florida.

II. THE PARTIES

5. Plaintiff Juan Carlos Ruemmele Song is of legal age and resident of the State of Texas, United States of America.

6. Plaintiff Gretchen Denise Ruemmele Song, also known as Gretchen Ferman, is of legal age and resident of the State of Texas, United States of America.

7. Plaintiff Victoria de Lourdes Ruemmele Resto is of legal age and resident of the State of Florida, United States of America.

8. Co-defendant Hospital Menonita Caguas, Inc. is a corporation created under the laws of Puerto Rico and having its corporate headquarters in Puerto Rico. Its principal place of business is in Puerto Rico, or somewhere other than Texas or Florida.

9. Co-defendant Hospital General Menonita, Inc. is a corporation created under the laws of Puerto Rico and having its corporate headquarters in Puerto Rico. Its principal place of business is in Puerto Rico, or somewhere other than Texas or Florida.

10. Co-defendant Mennonite General Hospital, Inc. is a corporation created under the laws of Puerto Rico and having its corporate headquarters in Puerto Rico. Its principal place of business is in Puerto Rico, or somewhere other than Texas or Florida.

11. Hereinafter, Hospital Menonita Caguas, Inc., Hospital General Menonita, Inc. and Mennonite General Hospital, Inc., shall be, collectively and individually, referred to as Hospital Menonita.

12. Co-defendant Dr. Jorge L. Cordero Soto and his wife Jane Doe I, fictitiously named herein because her identity is unknown to plaintiffs, to be later replaced by her actual name which may become known through further discovery in this litigation, are of legal age, married to each other and form a conjugal

partnership, and are citizens of Puerto Rico, or a state other than Texas or Florida. Dr. Cordero Soto is a surgeon authorized to practice medicine in Puerto Rico, who performed surgery on the deceased Mr. Juan Carlos Ruemmele Resto and provided him with pre, intra and post-operative care.

13. Co-defendant Dr. Aracelio Díaz Pérez and his wife Jane Doe II, fictitiously named herein because her identity is unknown to plaintiffs, to be later replaced by her actual name which may become known through further discovery in this litigation, are of legal age, married to each other and form a conjugal partnership, and are citizens of Puerto Rico, or a state other than Texas or Florida. Dr. Díaz Pérez is a doctor authorized to practice medicine in Puerto Rico, who provided post-operative care to the deceased Mr. Juan Carlos Ruemmele Resto.

14. Co-defendant Dr. José J. Pérez Matamoros and his wife Jane Doe III, fictitiously named herein because her identity is unknown to plaintiffs, to be later replaced by her actual name which may become known through further discovery in this litigation, are of legal age, married to each other and form a conjugal partnership, and are citizens of Puerto Rico, or a state other than Texas or Florida. Dr. Pérez Matamoros is a doctor authorized to practice medicine in Puerto Rico, who provided post-operative care to the deceased Mr. Juan Carlos Ruemmele Resto.

15. Co-defendant Dr. John Doe and his wife Jane Doe IV, fictitiously named herein because their identity is unknown to plaintiffs, to be later replaced by their actual names which may become known through further discovery in this litigation, are of legal age, married to each other and form a conjugal partnership, and are citizens of Puerto Rico, or a state other than Texas or Florida. Dr. John Doe

is an internist authorized to practice medicine in Puerto Rico, who was selected and provided to the decedent as an internist by co-defendant Hospital Menonita, and who provided the clearance to operate on the deceased Mr. Juan Carlos Ruemmele Resto.

16. Co-defendant Dr. Edgardo Quintana-Pagán and his wife Jane Doe V, fictitiously named herein because her identity is unknown to plaintiffs, to be later replaced by her actual name which may become known through further discovery in this litigation, are of legal age, married to each other and form a conjugal partnership, and are citizens of Puerto Rico, or a state other than Texas or Florida. Dr. Quintana is an anesthesiologist authorized to practice medicine in Puerto Rico, who was selected and provided to the decedent as an anesthesiologist by co-defendant Hospital Menonita, and who provided anesthesiology services prior to the operation and later ordered and/or approved the discharge of Mr. Juan Carlos Ruemmele Resto from the hospital.

17. Co-defendant Sindicato de Aseguradores para la Suscripción Conjunta de Seguros de Responsabilidad Médico Hospitalaria (SIMED) is an insurance company organized or authorized to do business under the laws of the Commonwealth of Puerto Rico. At the time that the facts alleged herein took place, said co-defendant SIMED had issued a professional liability policy or policies that was or were in full force and effect to protect and indemnify plaintiffs, among others, for damages caused by its insured co-defendant doctors Cordero Soto, Díaz Pérez, Pérez Matamoros, John Doe, Quintana-Pagán and/or Doctors A-Z.

18. Co-defendants Doctors A-Z, Conjugal Partnerships A-Z, and Personnel A-Z are unknown doctors and other medical personnel (and their conjugal partnerships), fictitiously named herein, to be later replaced by their actual names which may become known through further discovery in this litigation, that directly or indirectly treated Mr. Juan Carlos Ruemmele Resto as alleged below and, through fault and/or negligence, caused the plaintiffs damages. They are all domiciled in Puerto Rico or somewhere other than Texas or Florida.

19. Co-defendants Entities A-Z are entities fictitiously named herein, to be later replaced by their actual names which may become known through further discovery in this litigation, that, at all relevant times, owned, administered, were in charge of, or ran the Hospital Menonita or its emergency room, or employed, or were the principals of, the doctors or other persons that directly or indirectly treated Mr. Ruemmele Resto as alleged below and, through fault and/or negligence, caused the plaintiffs damages. They are all domiciled in Puerto Rico or somewhere other than Texas or Florida.

20. Co-defendants Insurance Companies A-Z are insurance companies fictitiously named herein, to be later replaced by their actual names which may become known through further discovery in this litigation, organized under the laws of, and with their principal place of business in, the Commonwealth of Puerto Rico. At all times relevant herein, Insurance Companies A-Z had issued one or more insurance policies in favor of defendants, which coverage was in full force and effect for the claims, injuries, damages, and/or losses being claimed by plaintiffs in this complaint.

III. PLEADINGS CONCERNING ALL CLAIMS FOR RELIEF

21. This is an action for malpractice committed by the medical personnel of Hospital Menonita, including Dr. Jorge L. Cordero Soto, Dr. John Doe (internist), Dr. Aracelio Díaz Pérez, Dr. José Pérez Matamoros and Dr. Edgardo Quintana-Pagán (the anesthesiologist) as a result of which Mr. Juan Carlos Ruemmele Resto died on April 5, 2015 at Hospital Menonita in Caguas, Puerto Rico.

22. Plaintiffs Juan Carlos and Gretchen are the sole heirs of their deceased father Mr. Juan Carlos Ruemmele Resto. At the time of his death, Mr. Ruemmele Resto was single.

23. Plaintiff Victoria de Lourdes is the sister of the deceased Mr. Juan Carlos Ruemmele Resto.

24. On the 31st day of March, 2015, plaintiffs' father and brother, Mr. Juan Carlos Ruemmele Resto, was admitted to the Hospital Menonita in Caguas, Puerto Rico for the purpose of undergoing an elective ambulatory laparoscopic cholecystectomy.

25. Said surgical procedure was performed by Dr. Jorge L. Cordero Soto.

26. At the time of his pre-admittance to the hospital on March 23rd, 2015, Mr. Ruemmele Resto had several co-morbidities which included moderate obesity, history of prior myocardial infarction with congestive heart failure, osteoarthritis, smoking history, gastroesophageal reflux disease, depression and anxiety, Human Immunodeficiency Virus (HIV), Hepatitis C, and known cirrhosis with portal hypertension.

27. At the time of the pre-admittance, on March 23rd, 2015, laboratories performed at the hospital showed that he had multiple contraindications and prohibitive laboratory values for an elective surgical procedure.

28. For example, Mr. Ruemmele Resto had a Partial Thromboplastin Time (PTT) level of 42.3, a Prothrombin Time (PT) level of 17.9, both results which are high, and his platelet level was abnormally low at 54 K/uL.

29. His white and red blood cell counts were both also low, at 2.0 K/uL and 3.60 M/uL respectively. His hemoglobin was also low, at 13.2 g/dL, as was his hematocrit level, which was at 38.9.

30. He had a decreased lymphocyte count of 0.5, indicating that he was immunocompromised.

31. He had an albumin level of 2.2, bilirubin level of 2.5, elevated AST/ALT/alkaline phosphatase and urobilogen of 2.0.

32. A CAT scan performed on November 17, 2014, demonstrated that the patient had nodular liver compatible with chronic hepatic liver disease, i.e. cirrhosis and splenomegaly with known portal hypertension and evidence of chronic lung nodules.

33. The next day, March 24th, 2015, another blood coagulation test was performed at Laboratorio Clínico Borinquen. The results showed that he had a PTT level of 41.4 and a PT level of 17.8, both still high.

34. Notwithstanding his state of health and the CBC results obtained prior to the procedure, Dr. Cordero decided to perform an elective surgical operation on Mr. Ruemmele Resto.

35. On March 3rd, 2015 at 10:05 a.m., Dr. Cordero requested from Dr. John Doe, the internist selected and provided by Hospital Menonita, whose name is unknown at this time, to evaluate Mr. Ruemmele Resto for surgery. According to the medical records, Dr. John Doe gave clearance for surgery on March 23rd, 2015 at 1:36 pm.

36. No consultation request from Dr. Cordero to any internist or any other doctor or specialist on March 31st, 2015, the day of the surgery, is present in the medical records.

37. No consultation request from Dr. Cordero or Dr. John Doe, the internist, to any gastroenterologist, hepatologist, infectologist or cardiologist to determine the risk of intra or post-operative complications is present in the medical records.

38. No laboratory tests were performed on the day of the surgery, March 31st, 2015.

39. Despite this, and the state of health and the CBC results of the patient, Hospital Menonita allowed Dr. Cordero to perform the surgery as planned.

40. Mr. Ruemmele Resto entered the operating room on March 31st, 2015 at 12:00 p.m. General anesthesia was commenced at 12:05 p.m. According to the medical records, the anesthiologist was Dr. Quintana.

41. The laparoscopic cholecystectomy was performed by Dr. Cordero, starting at 12:45 p.m. and ending at 1:20 p.m.

42. According to the Report of Operation, the pre-operative diagnosis, as well as the post-operative diagnosis, were cholecystitis and cholelithiasis.

43. After the surgery, Mr. Ruemmele Resto was transferred to the Post-Anesthesia Care Unit.

44. Dr. Cordero issued post-operation orders for Mr. Ruemmele Resto to be transferred "to the Recovery Room then to home after discharged by anesthesiologist"; "IV Fluids: R/L to run at 100 ml/hr"; "regular diet"; "vital signs as protocol"; "change dressings daily"; "activity: ambular"; "medications: Ultracet".

45. Mr. Ruemmele Resto was discharged from the hospital at 3:30 p.m. on March 31st, 2015. According to the medical records, Dr. Quintana ordered and/or approved Mr. Ruemmele Resto's discharge.

46. According to the medical records, Hospital Menonita charged a total of $3,954.86 for the laparoscopic cholecystectomy performed by Dr. Cordero on Mr. Ruemmele Resto.

47. On April 1st, 2015, Mr. Ruemmele Resto returned to Hospital Menonita, this time through the Emergency Ward, with active post-operative bleeding and pain in his abdomen.

48. According to the Emergency Department's Physician Documentation, Mr. Ruemmele Resto was seen by Dr. José J. Pérez Matamoros at 9:39 p.m.

49. It was reported that the stated complaint was an open wound.

50. The initial comments state that Mr. Ruemmele Resto suffered from abdominal pain and active bleeding due to surgical wound.

51. The timing/duration of the symptoms is stated to have been between 4 to 6 hours.

52. The location of the pain was described as generalized abdomen.

53. An Emergency Room evaluation described his pain as radiating, sharp and throbbing, with a very severe intensity. He was reported as being nauseous.

54. The provisional diagnosis performed by Dr. Pérez Matamoros was of surgical wound bleeding.

55. Laboratory tests conducted at 10:10 p.m. on April 1st revealed that Mr. Ruemmele Resto's white blood cell count was 13.6 K/uL and his red blood cell count was 3.29 M/uL.

56. He had a PT level of 19.4, which is high, and his platelet level was abnormally low at 73 K/uL.

57. On April 2nd, 2015 at 2:10 a.m., a CT Scan with IV contrast was performed. Mr. Ruemmele Resto was bleeding from the surgical wound and was feeling pain.

58. On April 2nd, 2015 at 4:30 a.m., Dr. Aracelio Díaz Pérez re-evaluated Mr. Ruemmele Resto and ordered another CBC.

59. These set of laboratories showed that his white blood cell count was 11.5 K/uL and his red blood cell count was 3.19 M/uL.

60. His platelet level was still abnormally low at 72 K/uL.

61. According to the April 2, 2015, 6:00 a.m. note in the Emergency Room Visit Summary, Mr. Ruemmele Resto was re-evaluated and discharged by Dr. Díaz Pérez, notwithstanding his symptoms and clinical condition.

62. The medical records show that Mr. Ruemmele Resto was still bleeding but nonetheless was being discharged.

63. At 6:20 a.m. on April 2, at the very moment when he was being taken out of the Emergency Room, Mr. Ruemmele Resto was profusely bleeding from his abdominal area.

64. While Mr. Ruemmele Resto was being wheeled in a chair out of the hospital's entrance, the security guard saw the bleeding and said that he could not leave and called medical personnel to alert them of Mr. Ruemmele Resto's bleeding.

65. For this reason, the discharge was overruled and Mr. Ruemmele Resto was taken back to the Emergency Room.

66. At 6:50 a.m. on April 2, Mr. Ruemmele Resto continued with active bleeding in his abdominal area. At this point he was waiting on Dr. Cordero for a consultation.

67. Mr. Ruemmele Resto was again seen by Dr. Díaz Pérez on April 2nd, 2015 at 6:53 a.m.

68. At 7:20 a.m. on April 2, his blood pressure was 166/58.

69. Mr. Ruemmele Resto was admitted to Hospital Menonita on April 2, 2015, at around 12:00 p.m. on orders of Dr. Cordero.

70. On April 2nd, 2015 at 12:45 p.m., another set of laboratories showed that his PT level was 22.6, which was so high that it exceeded panic values. His PTT level was 39.9, also abnormally high. His platelet level was still abnormally low at 68 K/uL.

71. All throughout his stay at the hospital, Mr. Ruemmele Resto's condition did not improve and he continued experiencing severe pain in the

abdominal area. The records show that he was afraid for his life because of the bleeding through the surgical wound.

72. Even though Mr. Ruemmele Resto had been bleeding from the surgical wound for 4 days, no blood transfusions or other medical treatments were ordered by Drs. Cordero, Díaz Pérez or Pérez Matamoros.

73. Not until the 4th of April at 2:30 a.m. were blood transfusions ordered and the first unit of fresh frozen plasma (FFP) was administered.

74. A second unit of FFP was administered at 6:32 a.m. of April 4.

75. At 7:00 a.m. of April 4, excessive bleeding in the bed was observed by the nurse.

76. A third unit of FFP was administered at 1:50 p.m. of April 4.

77. A fourth unit of FFP was administered at 6:00 p.m. of April 4.

78. At 9:00 p.m., the nurse tried to canalize Mr. Ruemmele Resto but reported that it was impossible. An intensive care unit nurse was summoned but could not canalize him either.

79. On April 5th, 2015, at 6:00 p.m. Mr. Ruemmele Resto had a blood pressure of 67/22, and a pulse of 135 beats per minute.

80. On April 5th, 2015, at 6:00 p.m. the order to transfer Mr. Ruemmele Resto to the ICU was given.

81. On April 5th, 2015, at 7:50 p.m. Mr. Ruemmele Resto had a blood pressure of 69/27, respiration of 23 beats per minute, pulse of 99 and temperature of 36.5.

82. The nurse notified Dr. Cordero, who did not issue any orders.

83. On April 5th, 2015, at 8:20 p.m. Mr. Ruemmele Resto had a blood pressure of 96/72, respiration of 25 per minute, pulse of 64 and temperature of 36.5.

84. The fifth unit of FFP was commenced at that time. The cardiac monitor revealed a low pulse. A code green was initiated.

85. At this point, he was suffering from brachycardia, as his pulse was at 40 beats per minute. Respiratory therapy was commenced.

86. Dr. Víctor Silva from the emergency room arrived and ordered the transfusion stopped and cardiopulmonary resuscitation (CPR) started.

87. At 8:26 p.m. epinephrine was administered. CPR was continued. Levophed @ 30 ml was administered. Pulse was present.

88. At 8:53 p.m. atropine was administered and CPR was continued.

89. At 9:00 p.m. dopamine @ 20 ml and atropine were administered. No vital signs were present. The second cycle of CPR was completed.

90. At 9:04 p.m. coffee brown fluid was drained and the dopamine was increased to 30 ml.

91. At 9:06 p.m. atropine was administered in accordance to the medical orders. Mr. Ruemmele Resto did not respond to the medical treatment.

92. At 9:10 p.m., the cardiac monitor displayed a straight line. Mr. Ruemmele Resto was pronounced dead by Dr. Silva.

93. At 9:15 p.m. Dr. Silva notified Dr. Cordero and Mr. Ruemmele Resto's family of his death.

94. An autopsy performed revealed the presence of cardiomegaly, pulmonary edema, hospital acquired pneumonia, ascites with associated cirrhosis, jaundice, and the known HIV and hepatitis reactive serology.

95. The autopsy attributed the cause of death to "acute on chronic" liver disease with the presence of hepatic cirrhosis with portal hypertension (splenomegaly).

IV. NEGLIGENCE

First Cause of Action
Defendants' negligent decision to operate on Mr. Ruemmele Resto

96. The allegations of the preceding paragraphs are realleged as if fully set forth in their entirety.

97. Mr. Ruemmele Resto was a 54-year-old male patient with history of cirrhosis of the liver with portal hypertension, Hepatitis C and HIV. He was 5 feet 6 inches tall and weighed 250 pounds. He had other co-morbidities which included moderate obesity, history of prior myocardial infarction with congestive heart failure, osteoarthritis, smoking history, gastroesophageal reflux disease, depression and anxiety.

98. It is well established in the medical literature that patients with cirrhosis undergoing surgery are at increased risks for morbidity and mortality.

99. Due to the risks of intra and post-operative complications and associated morbidity, cirrhosis of the liver is considered a contraindication for laparoscopic cholecystectomy.

100. The medical literature clearly states that post-operative bleeding is a leading cause of death in patients suffering from cirrhosis of the liver who undergo laparoscopic cholecystectomies.

101. The literature also establishes that patients with cirrhosis of the liver who undergo a laparoscopic cholecystectomy suffered higher conversion rates, longer operative time, higher bleeding complications and overall increased morbidity than those without cirrhosis of the liver.

102. The increased risk of bleeding in patients with cirrhosis is related to increased prothrombin time (PT), thrombocytopenia (low platelet count), and portal hypertension.

103. The pre-operative assessment of Mr. Ruemmele Resto, who was undergoing an elective surgical procedure, required a team effort to be spearheaded by the surgeon.

104. Operative risk correlates with the severity of each individual disease process, which in this case was cirrhosis, HIV, and coronary artery disease, and the nature of the operative procedure.

105. Before performing elective surgery, the doctors, including the internist (Dr. Doe) and the anesthesiologist (Dr. Quintana) selected and provided by Hospital Menonita, had the duty to stabilize Mr. Ruemmele Resto and optimize his clinical condition to improve the chances of a successful surgical outcome.

106. Dr. Cordero failed to follow the standard of care for patients with cirrhosis of the liver and the other comorbidities herein alleged and acted negligently in deciding to perform an elective laparoscopic cholecystectomy on Mr.

Ruemmele Resto, given his compromised state of health, clinical findings, comorbidities and CBC results. As a result of said negligence, Mr. Ruemmele Resto ultimately died.

107. Mr. Ruemmele Resto's condition was such that Dr. Cordero and Dr. Doe knew, or should have known, that Mr. Ruemmele Resto would not stop bleeding after performing the laparoscopic cholecystectomy.

108. Dr. Cordero should not have operated on Mr. Ruemmele Resto, particularly for a surgical procedure that is elective in nature, inasmuch as Mr. Ruemmele Resto's cholecystitis and cholelithiasis were not life threatening and were manageable with other safer courses of action, whereas any surgery posed a greater risk of death due to his cirrhosis, other comorbidities and overall condition.

109. The internist, Dr. John Doe, also acted negligently and did not act in accordance with the best practice of medicine when he gave clearance to Dr. Cordero to perform the surgical procedure on Mr. Ruemmele Resto. As alleged hereinbefore, by the standards of modern medicine, Mr. Ruemmele Resto should not have been operated on.

110. Dr. John Doe, the internist, violated the standard of care by not referring Mr. Ruemmele Resto for a thorough evaluation by a gastroenterologist or hepatologist who could have accurately risk stratified him based upon either a Child-Pugh Score or MELD Score.

111. Dr. John Doe, the internist, violated the standard of care by not referring Mr. Ruemmele Resto, who was HIV positive, for an infectious disease

consultation to determine the risk of post-operative immunocompromised complications.

112. Dr. John Doe, the internist, violated the standard of care by not referring Mr. Ruemmele Resto, who had known coronary artery disease with congestive heart failure, for a cardiology consultation to determine the risk of post-operative complications.

113. As a result of the negligence of Dr. John Doe, Mr. Ruemmele Resto was operated on and ultimately died.

114. Furthermore, Dr. Cordero also violated the standard of care by not referring Mr. Ruemmele Resto for a thorough evaluation by a gastroenterologist or hepatologist who could have accurately risk stratified him based upon either a Child-Pugh Score or MELD Score.

115. Dr. Cordero also violated the standard of care by not referring Mr. Ruemmele Resto, who was HIV positive, for an infectious disease consultation to determine the risk of post-operative immunocompromised complications.

116. Dr. Cordero also violated the standard of care by not referring Mr. Ruemmele Resto, who had known coronary artery disease with congestive heart failure, for a cardiology consultation to determine the risk of post-operative complications

117. Dr. Cordero and the internist, Dr. John Doe, independently and jointly, grossly departed and deviated from the accepted standard of care one would expect for physicians treating a patient with known cirrhotic liver disease with portal hypertension, the presence of established HIV, and coronary artery disease.

118. Hospital Menonita is liable for the negligence of the surgeon, Dr. Cordero, the internist, Dr. John Doe, and the anesthesiologist, Dr. Quintana, inasmuch as said doctors were selected and provided by the hospital and not chosen by Mr. Ruemmele Resto.

119. Hospital Menonita is further liable to plaintiffs by failing to put in place measures to prevent its doctor staff from performing surgical procedures, such as the one in this case, when medical indications clearly dictate that such procedures should not be conducted. Hospital Menonita permitted, condoned, encouraged and promoted such practices, in order to enrich itself.

120. As a direct and proximate cause of co-defendants Dr. Cordero, Dr. John Doe (internist) and Hospital Menonita's failure to properly treat Mr. Ruemmele Resto, plaintiffs sustained severe pain and suffering and other damages, as described below.

Second Cause of Action
Defendants' negligent care after the operation on Mr. Ruemmele Resto

121. The allegations of the preceding paragraphs are realleged as if fully set forth in their entirety.

122. Dr. Cordero acted negligently as well when, after making his negligent decision to perform surgery on Mr. Ruemmele Resto, did not act in accordance with the best practice of medicine when he failed to provide the required medical treatment and take the proper pre-operative measures to ensure that the patient was ready to be operated on.

123. Dr. Cordero and Hospital Menonita acted negligently as well by discharging Mr. Ruemmele Resto on the same day of the surgical procedure, when due to his compromised state of health he should have been kept at the hospital until the medical personnel could make sure that Mr. Ruemmele Resto would not bleed to death and should have given him other medical assistance. It was entirely foreseeable that, given his compromised condition, Mr. Ruemmele Resto would not stop bleeding.

124. Dr. Quintana, the anesthesiologist, acted negligently as well by ordering and/or approving the discharge of Mr. Ruemmele Resto on the same day of the surgical procedure, when due to his compromised state of health he should have been kept at the hospital until the medical personnel could make sure that Mr. Ruemmele Resto would not bleed to death and should have given him other medical assistance. It was entirely foreseeable that, given his compromised condition, Mr. Ruemmele Resto would not stop bleeding.

125. Dr. Quintana, the anesthesiologist, was provided by co-defendant Hospital Menonita and was not chosen by Mr. Ruemmele Resto, therefore, the hospital is liable for the negligent acts committed by Dr. Quintana, the anesthesiologist.

126. Dr. Cordero, Dr. Díaz Pérez, Dr. Pérez Matamoros and Hospital Menonita also acted negligently when, at the time when Mr. Ruemmele Resto returned to the Emergency Room, failed to properly assess his condition and failed to, among other things, immediately transfuse FFP and transfer him to the Intensive Care Unit.

127. It was not until April 4, the day before his death, when the medical personnel decided to transfuse Mr. Ruemmele Resto with FPP, at which time it was already too late and such transfusions did not have the effect they would have if they had been administered before the surgical procedure and shortly and continuously thereafter.

128. The medical doctors, Dr. Cordero Soto, Dr. Díaz Pérez, Dr. Pérez Matamoros, Dr. John Doe (the internist whose name does not appear from the record), Dr. Quintana (the anesthesiologist whose full name does not appear from the record), as well as other paramedical personnel were employees of Hospital Menonita and acted in discharge of their duties as such. Mr. Ruemmele Resto entered Hospital Menonita on April 1, 2015 through the Emergency Room and did not choose any of the treating doctors. Hospital Menonita is liable for the negligence of the medical and paramedical personnel who negligently treated the patient.

129. As a direct and proximate cause of co-defendants Dr. Cordero Soto, Dr. Díaz Pérez, Dr. Pérez Matamoros, Dr. John Doe (internist), Dr. Quintana (the anesthesiologist) and Hospital Menonita's failure to properly treat Mr. Ruemmele Resto, plaintiffs sustained severe pain and suffering and other damages, as described below.

Third Cause of Action
Negligence of Hospital Menonita and its employees and personnel

130. The allegations of the preceding paragraphs are realleged as if fully set forth in their entirety.

131. Hospital Menonita has emergency, surgery, hospital and intensive care departments within its hospital premises.

132. At the relevant times of this complaint, Hospital Menonita operated or contracted to operate emergency, surgery, hospital and intensive care departments within its premises.

133. The hospital sets up policies, procedures and/or requirements for the operation of the emergency, hospital, surgery, hospital and intensive care departments on its premises.

134. The hospital supplies nursing, clerical, administrative, and technical personnel to the emergency, hospital, PACU, ICU, and surgery departments.

135. The hospital derives revenue from the services provided to patients, specifically at these departments within its premises.

136. The hospital is liable for medical malpractice occurring at the previously mentioned hospital departments located on its premises.

137. The pre-operative assessment of patients undergoing elective surgical procedure required a team effort spearheaded by the surgeon, taking into consideration that the operative risk correlates with the severity of each individual disease process, which in this case was cirrhosis, HIV, and coronary artery disease, and the nature of the surgical procedure.

138. Before performing elective surgery, the doctors, including the internist and the anesthesiologist selected and provided by the hospital, had the duty to stabilize Mr. Ruemmele Resto and optimize his clinical condition to improve the chances of a successful surgical outcome.

139. After performing the elective surgery, the doctors, including the anesthesiologist selected and provided by the hospital, had the duty to stabilize Mr. Ruemmele Resto and optimize his clinical condition to improve the chances of a successful surgical outcome. These doctors negligently discharged Mr. Ruemmele Resto on the same day of the operation, thereby causing and/or contributing to cause Mr. Ruemmele Resto's death and plaintiffs' damages.

140. The treatment offered by Hospital Menonita to Mr. Ruemmele Resto, through its medical, nursing, technical personnel and/or the doctors with privileges who used its facilities, was below the medical standard that satisfies the exigencies generally recognized by the medical profession in light of the modern means of communication and teaching and, as such, directly caused and/or contributed to causing plaintiffs the untimely death of their beloved father and brother, Mr. Ruemmele Resto, and the injuries as described herein.

141. Hospital Menonita's personnel failed to exercise the care and precautions required under the circumstances in order to prevent the loss of Mr. Ruemmele Resto's life, lacked the required knowledge and medical skill, failed to timely have available the personnel necessary to avoid the injuries and subsequent death of Mr. Ruemmele Resto.

142. Hospital Menonita's nursing and medical personnel negligently failed to recognize or otherwise ignored the serious nature of Mr. Ruemmele Resto's condition displayed by the profuse bleeding from the surgical wound, given his cirrhosis of the liver condition, the other comorbidities and the CBC results.

143. At all times herein pertinent, co-defendant Hospital Menonita, its directors, officers, and employees were negligent in failing to provide the proper medical attention to Mr. Ruemmele Resto, in failing to provide the proper supervision of Dr. Cordero, Dr. Díaz Pérez, Dr. Pérez Matamoros, Dr. John Doe (internist), Dr. Quintana (anesthesiologist) as well as all other intervening physicians and medical personnel Hospital Menonita employs, and otherwise failing to exercise due care and caution to prevent the tortious conduct and injuries to plaintiffs and to Mr. Ruemmele Resto.

144. Hospital Menonita not only failed to adequately supervise the co-defendant physicians, as well as all other intervening physicians, nursing and technical personnel and/or ensure their prompt attention to the patient, but permitted the use of its facilities, allowing, encouraging, and condoning the negligent care and improper treatment of Mr. Ruemmele Resto, proximately and directly causing plaintiffs' injuries.

145. Hospital Menonita offered medical services to its patients, but failed to staff its hospital with the medical personnel necessary to timely, appropriately, and safely treat its patients and ensure prompt and adequate medical attention.

146. As alleged below, Hospital Menonita failed to ensure that the patient was fully informed as to the risks and benefits of the surgery and/or sufficiently fit to endure such elective surgery despite his compromised hepatic state.

147. As a result of the lack of informed consent, the hospital permitted and encouraged the unnecessary and contraindicated surgery and permitted the patient

to be battered by the medical and nursing personnel involved, and the ensuing foreseeable complications and death of Mr Ruemmele Resto.

148. As a direct and proximate result of Hospital Menonita's lack of supervision and failure to staff its emergency, surgical and intensive care departments with the medical personnel and personnel in charge of coordinating and communicating vital information necessary to appropriately treat emergency situations at Hospital Menonita, Hospital Menonita and its personnel negligently caused the untimely death of plaintiffs' father and brother and the injuries as described herein.

149. As a direct and proximate cause of co-defendant Hospital Menonita and its personnel's failure to properly treat Mr. Ruemmele Resto, plaintiffs sustained severe pain and suffering and other damages, as described below.

Fourth Cause of Action
Inadequate and Null Informed Consent

150. The allegations of the preceding paragraphs are realleged as if fully set forth in their entirety.

151. Dr. Cordero performed the surgery on Mr. Ruemmele Resto without previously explaining the nature, risks, possibilities and alternatives available to him for his particular condition given his multiple comorbidities.

152. Dr. Cordero and Hospital Menonita acquired the signature of the decedent Mr. Ruemmele Resto in an "informed consent" form on February 2, 2015.

153. Said informed consent form clearly establishes that Dr. Cordero and Hospital Menonita did not fully inform or explain to the patient the incidental risks of the elective surgery that was to be performed.

154. The deficient and inadequate consent form stated that the risks of the operation were, as far as could be discerned, "death". There are other risks listed and probable consequences which at this time are unintelligible, none of which address the patient's particular medical condition, particularly his cirrhosis of the liver, HIV, Hep-C, coronary artery disease, etc.

155. One thing is clear however; the consent form does not state that the risks to this patient, due to his cirrhosis of the liver, Hep-C and HIV condition, as well as his other comorbidities, were that:

a. due to the risks of intra and post-operative complications and associated morbidity, cirrhosis of the liver is often considered a contraindication for laparoscopic cholecystectomy;

b. post-operative bleeding is a leading cause of death in patients suffering from cirrhosis of the liver who undergo laparoscopic cholecystectomies;

c. patients with cirrhosis of the liver who undergo a laparoscopic cholecystectomy suffered higher conversion rates, longer operative time, higher bleeding complications and overall increased morbidity than those without cirrhosis of the liver;

d. other foreseeable consequences of conducting an elective surgery on a patient with Mr. Ruemmele Resto's condition and co-morbidities.

156. Before Dr. Cordero could perform the medical procedure on Mr. Ruemmele Resto, he had the duty to first obtain his informed consent.

157. Dr. Cordero, and Hospital Menonita, breached their duty to inform their patient about the nature and risks of the proposed medical treatment in order to place the patient in a position to reach an intelligent and informed decision.

158. There is no controversy as to the fact that this was an elective surgical procedure. Therefore, Dr. Cordero had the duty to be more precise in his disclosure *vis a vis* a life threatening situation.

159. Dr. Cordero chose to operate on Mr. Ruemmele Resto well knowing that his condition was such as to not likely tolerate the outcome of the intervention.

160. As such, Dr. Cordero had the duty to inform Mr. Ruemmele Resto that the surgical procedure that he proposed was highly risky, and not merely an in and out, run of the mill procedure.

161. Undoubtedly, Mr. Ruemmele Resto would not have elected to undergo the highly risky and life threatening procedure had Dr. Cordero and Hospital Menonita complied with their duties toward him and had fully explained the risks associated with the proposed surgical procedure.

162. Furthermore, it is clear that in the normal course of events Dr. Cordero foresaw, would have foreseen or had to foresee, that the lack of pertinent information would lead Mr. Ruemmele Resto to take a different decision than the one he did to undergo surgery if he had been suitably informed of the risks associated with the operation.

163. Therefore, it is clear that the lack of adequate information by defendants as to the decedent was a proximate cause of the damages herein alleged.

164. As a direct and proximate cause of Dr. Cordero and Hospital Menonita's failure to properly obtain an informed consent from Mr. Ruemmele Resto, plaintiffs sustained severe pain and suffering and other damages, as described below.

Fifth Cause of Action
Hospital Menonita's failure to properly credential Dr. Cordero

165. The allegations of the preceding paragraphs are realleged as if fully set forth in their entirety.

166. Hospital Menonita owed an independent duty of care to Mr. Ruemmele Resto to, *inter alia*: (a) carefully select the physicians to whom it grants privileges; (b) require that such physicians stay abreast of the most recent developments in their respective fields; (c) monitor the work of such physicians, intervening, when possible, in the face of an obvious act of medical malpractice by one of them; (d) discontinue the privilege granted to repeated or gross acts of medical malpractice of those physicians; and (e) remain reasonably up-to-date in terms of technological advances.

167. Upon information and belief, Dr. Cordero holds medical privileges at co-defendant Hospital Menonita in Caguas, Puerto Rico.

168. Upon information and belief, Dr. Cordero has been subjected to numerous patient complaints, as well as numerous lawsuits, because of his professional conduct of which Hospital Menonita is aware and cognizant.

169. Hospital Menonita is aware of Dr. Cordero's deficient performance as a general surgeon and has failed to revoke or limit Dr. Cordero's privileges, namely because Dr. Cordero's practice at Hospital Menonita is very lucrative to the hospital.

170. Hospital Menonita failed to select the physicians to whom privileges were granted at said facilities and to properly monitor their work and professional qualifications, competence and improvement courses, etc.

171. Hospital Menonita negligently selected, qualified and authorized Dr. Cordero to practice medicine in the hospital.

172. Hospital Menonita's negligence in selecting, qualifying and authorizing Dr. Cordero to practice medicine in the hospital was a proximate cause of Mr. Ruemmele Resto's death.

173. As a direct and proximate cause of co-defendant Hospital Menonita failure to select, qualify and authorize Dr. Cordero to practice medicine in the hospital, plaintiffs sustained severe pain and suffering and other damages, as described below.

V. DAMAGES

A. Survivorship claim

174. The allegations of the preceding paragraphs are realleged as if fully set forth in their entirety.

175. Plaintiffs Juan Carlos and Gretchen, as sole heirs of Mr. Ruemmele Resto, inherit via a survivorship action the cause of action for the physical pain, mental anguishes and other damages their father suffered prior to his death.

176. Mr Ruemmele Resto suffered agonizing pain and suffering for more than 5 days. The medical records show that his pain was described as radiating, sharp and throbbing, with a very severe intensity.

177. Apart from the physical pain and suffering due to the surgical wound, Mr. Ruemmele Resto suffered mental pain and anguish as he slowly died due to the negligence of the co-defendants. The medical records show that he was afraid for his life because of the bleeding through the surgical wound.

178. Mr. Ruemmele Resto's physical and mental pain and suffering is estimated in an amount in excess of $2,000,000.00, which is inherited by his sole heirs, plaintiffs Juan Carlos and Gretchen.

179. All the damages suffered by the decedent, Mr. Ruemmele Resto, which are inherited by plaintiffs Juan Carlos and Gretchen, were a direct consequence of the negligence of the co-defendants.

B. Pain and Suffering (Juan Carlos and Gretchen)

180. The allegations of the preceding paragraphs are realleged as if fully set forth in their entirety.

181. Juan Carlos and Gretchen have suffered, and continue to suffer, mental anguishes and pain due to their father's untimely and wrongful death.

182. Juan Carlos and Gretchen have been deprived of the company of their beloved father due to the negligence of the defendants.

183. The damages suffered by Juan Carlos and Gretchen are estimated in an amount in excess of $2,000,000.00 each.

184. All the damages suffered by plaintiffs Juan Carlos and Gretchen are a direct consequence of the negligence of the co-defendants.

C. Pain and Suffering (Victoria de Lourdes)

185. The allegations of the preceding paragraphs are realleged as if fully set forth in their entirety.

186. Plaintiff Victoria de Lourdes has suffered, and continues to suffer, mental anguishes and pain due to her brother's untimely and wrongful death.

187. Plaintiff Victoria de Lourdes has been deprived of the company of her beloved brother due to the negligence of the defendants.

188. The damages suffered by Victoria de Lourdes are estimated in an amount in excess of $1,000,000.00.

189. All the damages suffered by plaintiff Victoria de Lourdes are a direct consequence of the negligence of the co-defendants.

VI. TOTAL DAMAGES

190. All of the above named defendants are severally and jointly liable to plaintiffs in an amount of not less than $7,000,000.00 for all damages alleged in this complaint.

VII. TOLLING OF THE STATUTE OF LIMITATIONS

191. On March 18th and 23rd, 2016, counsel for plaintiffs tolled the statute of limitations imposed by Article 1868 of the Puerto Rico Civil Code, 31 LPRA 5298, by sending a letter via fax and certified mail to the co-defendants.

192. As to Dr. John Doe, plaintiffs still do not know his or her identity, so the statute of limitations has not started to accrue as to this defendant.

193. As to Dr. Quintana, plaintiffs have recently learned of his name and his negligent acts in ordering and/or approving the discharge of the decedent.

194. Therefore, plaintiffs' complaint is timely in accordance with Article 1873 of the Puerto Rico Civil Code, 32 LPRA 5303.

VIII. TRIAL BY JURY

195. Plaintiffs demand trial by jury regarding all issues of material fact in the instant case.

WHEREFORE, it is very respectfully requested from this Honorable Court to enter judgment in favor of the plaintiffs and against the defendants, severally and jointly, in the amount above requested plus interest, costs and attorneys' fees.

RESPECTFULLY SUBMITTED.

In Caguas, Puerto Rico, this 9th day of February, 2017.

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